

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION

WALTER ALDRIDGE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:08-cv-00884-RBP-RRR
	)	
NORMAN CULLIVER, <i>et al</i> ,	)	
	)	
Defendant.	)	

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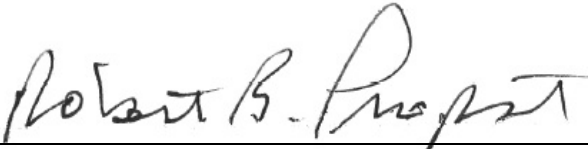
MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on June 16, 2008, recommending that the plaintiff's federal § 1983 claim be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). The magistrate judge further recommended that any state law claims be dismissed without prejudice pursuant to 28 U.S.C. § 1367(c)(3). The plaintiff filed objections to the report and recommendation on July 11, 2008. (Doc. #9). In his objections the plaintiff reiterates his complaint that the defendants were grossly negligent and that they violated his Eighth and Fourteenth Amendment rights by failing to assist him in exiting the prison van despite his alleged "highly intoxicated" condition due to having been administered Demerol at the hospital. However, the magistrate judge correctly recognized that mere negligence resulting in unintended loss or injury to life, liberty or property does not implicate the due process clause and will not support an action under § 1983. *Daniels v. Williams*, 474 U.S. 327 (1986). Additionally, even when taken as true for the purposes of this review, the plaintiff's factual allegations do not show that the defendants acted with the subjective deliberate indifference required

to set forth a constitutional claim. *Farmer v. Brennan*, 511 U.S. 825, 835 (1994). Nothing in the plaintiff's complaint shows that the defendants were aware of facts from which they could have drawn the inference that the plaintiff faced a *substantial risk of serious harm*. *Farmer v. Brennan*, 511 U.S. 825(1994). As the magistrate judge correctly pointed out, "more than ordinary lack of due care for the prisoner's interests or safety" is required to establish constitutional liability under that amendment. *Farmer*, 511 U.S. at 835 (1994).

Therefore, having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the plaintiff's federal § 1983 claim is due to be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). Any state law claims asserted in the complaint are due to be dismissed without prejudice, pursuant to 28 U.S.C. § 1367(c)(3). A Final Judgment will be entered contemporaneously herewith.

DATED this 17<sup>th</sup> day of July, 2008.

  
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**ROBERT B. PROPST**  
**SENIOR UNITED STATES DISTRICT JUDGE**